

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALEXANDER ALHOVSKY,

Plaintiff,

v.

THOMAS RYAN, NEW YORK CITY POLICE
DEPARTMENT DETECTIVES STEVEN GOETZ AND
JOSE M. ALFONSO, NEW YORK CITY POLICE
DEPARTMENT OFFICERS SGT. PANUCCIO, PAUL,
MORNZANI AND GAVEN, JACK T. LINN, STEVE
SIMON, RAY BROWN, BARBARA JOYNER, the
NEW YORK CITY DEPARTMENT OF PARKS AND
RECREATION, and the CITY OF NEW YORK,

Defendants.
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Civil Action

07 CIV 7628 (CM)

ECF

**DECLARATION OF
ROBERT K. ERLANGER**

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ROBERT K. ERLANGER does hereby declare pursuant to 28 U.S.C. §1746:

1. I am plaintiffs' counsel and am admitted to practice law before this Court. This Declaration is submitted in opposition to defendants FRCP 56 motion for summary judgment as to the 42 U.S.C. §1983 excessive force and state law false arrest claims against Ryan, on the grounds that there are no factual issues to be tried, and as to the §1983 claims on the grounds of qualified immunity.

2. Exhibit 1 attached is pertinent portions of the deposition of plaintiff Alexander Alhovsky taken on January 10, 2008.

3. Exhibit 2 attached is a Complaint - Follow Up Information dated 6/26/06, which was produced by defendants as part of the FRCP 26 initial disclosure.

4. Exhibit 3 attached is an illegible document, as it was produced by defendants as part of the FRCP 26 initial disclosure.

5. Because Ryan has relied on discovery produced by the City and his own affidavit, and this Court has not permitted plaintiff to take Ryan's deposition by its "so ordering" defendants'

counsel's June 2 letter, plaintiff does not have sufficient information to completely oppose that portion of Ryan's motion seeking to have the §1983 unreasonable force claim dismissed on the grounds of no "personal involvement."

6. After hearing the parties' version of the facts during the November 30, 2007 Scheduling Conference in chambers, the Hon. Colleen McMahon asked defendants' counsel why the police did not interview plaintiff and simply ask him what the "suspicious device" is?

7. Although not pertinent to Alhovsky's opposition to the present motion, I have submitted to the City's counsel the report of Alex Weintrob, MD, a board-certified psychiatrist, with more than 40 years of professional psychiatric experience (and current appointments at NYU Medical School, Cornell Medical School, Lenox Hill, New York Hospital and Beth Israel). Dr. Weintrob concludes to a reasonable degree of medical certainty that Alhovsky suffers from Posttraumatic Stress Syndrome that was caused by the events of June 28, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 9, 2008

s/ Robert K. Erlanger
Robert K. Erlanger (RE-0886)

DECLARATION

ROBERT K. ERLANGER, an attorney admitted to the bar of the State of New York and to the United States District Court for the Southern District of New York, does hereby declare pursuant to 28 U.S.C. §1746:

On June 9, 2008, I served defendants' Rule 56 Statement, Memorandum of Law in Opposition, and 6/9/08 Declaration of Robert K. Erlanger with exhibits in opposition to defendant's motion to dismiss, or alternatively to stay, by email to defendant's counsel at: srivera@law.nyc.gov

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 9, 2008.

s/ Robert K. Erlanger
ROBERT K. ERLANGER